

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<b>PHILIP H. COHN,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 06-cv-0762-MJR</b>
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Respondent.</b>	)	

**MEMORANDUM and ORDER**

**REAGAN, District Judge:**

On October 24, 2006, the undersigned District Judge denied Philip Cohn's motion for relief under 28 U.S.C. § 2255. Denial was warranted, because Cohn had waived his right to direct appeal *and* collateral attack in the plea agreement he executed (a waiver for which Cohn received other benefits). The undersigned Judge found the waiver knowing and voluntary; so it was enforceable and precluded § 2255 relief.

Judgment was entered accordingly on October 24, 2006. Cohn then filed two other motions (to alter/amend judgment and for additional findings of fact). The undersigned Judge denied those motions on November 13 and November 29, 2006, respectively.

On January 3, 2007, Cohn filed a notice of appeal, challenging the denial of § 2255 relief plus the November 13<sup>th</sup> and November 29<sup>th</sup> rulings. Cohn did *not* file a motion for certificate of appealability with his notice of appeal. Nor has Cohn requested a certificate of appealability from the United States Court of Appeals for the Seventh Circuit. 28 U.S.C. § 2253(c)(1)(B) provides that an appeal from the final order in a § 2255 proceeding may not be taken unless a Circuit or District Court Judge has issued a certificate of appealability.

The Court now **CONSTRUES** Cohn's notice of appeal to include a request for

certificate of appealability. The Court **DENIES** that request, because – for the reasons stated in the October 24, 2006 Order – Cohn has not made “a substantial showing of the denial of a constitutional right.” *See* 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 2nd day of March 2007.

s/ Michael J. Reagan  
MICHAEL J. REAGAN  
United States District Court